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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

MUNGER, TOLLES & OLSON LLP
O/B/O AMERICAN MANAGEMENT
SERVICES LLC, D/B/A/ PINNACLE,

Plaintiff.

V.

UNITED STATES DEPARTMENT OF THE ARMY

Defendants.

No. CV 13-06890 DDP (MANx)

**ANSWER OF DEFENDANT TO
PLAINTIFF'S COMPLAINT**

Defendant acting by and through its undersigned attorneys, hereby answers the allegations in Plaintiff's Complaint as follows:

1. The allegations of paragraph 1 of the Complaint constitute legal conclusions to which no response is required. To the extent a response is deemed required, Defendant denies the allegations contained in paragraph 1 of the Complaint.

2. Deny.

1 3. Deny.

2 4. Deny.

3 5. Defendant lacks knowledge sufficient to form a belief as to the truth
4 of the matters asserted in paragraph 5 of the Complaint and on that basis denies
5 them.

6 6. Defendant lacks knowledge sufficient to form a belief as to the truth
7 of the matters asserted in paragraph 6 of the Complaint and on that basis denies
8 them.

9 7. Defendant admits that the Army is not a party to the litigation between
10 Clark and Pinnacle. Defendant lacks knowledge sufficient to form a belief as to
11 the truth of the remaining matters asserted in paragraph 7 of the Complaint and on
12 that basis denies them.

13 8. Defendant lacks knowledge sufficient to form a belief as to the truth
14 of the matters asserted in paragraph 8 of the Complaint and on that basis denies
15 them.

16 9. Defendant lacks knowledge sufficient to form a belief as to the truth
17 of the matters asserted in paragraph 9 of the Complaint and on that basis denies
18 them.

19 10. The allegations of paragraph 10 of the Complaint constitute
20 allegations of jurisdiction to which no response is required. To the extent a
21 response is deemed required, Defendant denies the allegations contained in
22 paragraph 10 of the Complaint.

23 11. The allegations of paragraph 11 of the Complaint constitute
24 allegations of jurisdiction to which no response is required. To the extent a
25 response is deemed required, Defendant denies the allegations contained in
26 paragraph 11 of the Complaint.

27 12. The allegations of paragraph 12 of the Complaint constitute
28 allegations of venue to which no response is required. To the extent a response is

1 deemed required, Defendant denies the allegations contained in paragraph 12 of
2 the Complaint.

3 13. Admit.

4 14. Admit that the Army is a federal agency within the meaning of 5
5 U.S.C. § 552(f)(1). Defendant lacks knowledge sufficient to form a belief as to the
6 truth of the remaining matters asserted in paragraph 14 of the Complaint and on
7 that basis denies them.

8 15. Defendant lacks knowledge sufficient to form a belief as to the truth
9 of the matters asserted in paragraph 15 of the Complaint and on that basis denies
10 them.

11 16. Defendant lacks knowledge sufficient to form a belief as to the truth
12 of the matters asserted in paragraph 16 of the Complaint and on that basis denies
13 them.

14 17. Defendant lacks knowledge sufficient to form a belief as to the truth
15 of the matters asserted in paragraph 17 of the Complaint and on that basis denies
16 them.

17 18. Defendant lacks knowledge sufficient to form a belief as to the truth
18 of the matters asserted in paragraph 18 of the Complaint and on that basis denies
19 them.

20 19. Defendant lacks knowledge sufficient to form a belief as to the truth
21 of the matters asserted in paragraph 19 of the Complaint and on that basis denies
22 them.

23 20. Defendant lacks knowledge sufficient to form a belief as to the truth
24 of the matters asserted in paragraph 20 of the Complaint and on that basis denies
25 them.

26 21. Defendant lacks knowledge sufficient to form a belief as to the truth
27 of the matters asserted in paragraph 21 of the Complaint and on that basis denies
28 them.

1 22. Defendant lacks knowledge sufficient to form a belief as to the truth
2 of the matters asserted in paragraph 22 of the Complaint and on that basis denies
3 them.

4 23. Defendant lacks knowledge sufficient to form a belief as to the truth
5 of the matters asserted in paragraph 23 of the Complaint and on that basis denies
6 them.

7 24. Defendant lacks knowledge sufficient to form a belief as to the truth
8 of the matters asserted in paragraph 24 of the Complaint and on that basis denies
9 them.

10 25. Defendant lacks knowledge sufficient to form a belief as to the truth
11 of the matters asserted in paragraph 25 of the Complaint and on that basis denies
12 them.

13 26. Defendant lacks knowledge sufficient to form a belief as to the truth
14 of the matters asserted in paragraph 26 of the Complaint and on that basis denies
15 them.

16 27. Defendant lacks knowledge sufficient to form a belief as to the truth
17 of the matters asserted in paragraph 27 of the Complaint and on that basis denies
18 them.

19 28. Defendant lacks knowledge sufficient to form a belief as to the truth
20 of the matters asserted in paragraph 28 of the Complaint and on that basis denies
21 them.

22 29. The allegations of paragraph 29 of the Complaint constitute legal
23 conclusions to which no response is required. To the extent a response is deemed
24 required, Defendant denies the allegations contained in paragraph 29 of the
25 Complaint. Defendant avers that the provisions of 5 U.S.C. § 552 speak for
26 themselves.

27 30. The allegations of paragraph 30 of the Complaint constitute legal
28 conclusions to which no response is required. To the extent a response is deemed

1 required, Defendant denies the allegations contained in paragraph 30 of the
2 Complaint. Defendant avers that the provisions of 5 U.S.C. § 552 and 32 C.F.R.
3 § 518 speak for themselves.

4 31. The allegations of paragraph 31 of the Complaint constitute legal
5 conclusions to which no response is required. To the extent a response is deemed
6 required, Defendant denies the allegations contained in paragraph 31 of the
7 Complaint. Defendant avers that the provisions of 5 U.S.C. § 552 speak for
8 themselves.

9 32. The allegations of paragraph 32 of the Complaint constitute legal
10 conclusions to which no response is required. To the extent a response is deemed
11 required, Defendant denies the allegations contained in paragraph 32 of the
12 Complaint. Defendant avers that the provisions of 5 U.S.C. § 552 and 32 C.F.R.
13 § 518 speak for themselves.

14 33. The allegations of paragraph 33 of the Complaint constitute legal
15 conclusions to which no response is required. To the extent a response is deemed
16 required, Defendant denies the allegations contained in paragraph 33 of the
17 Complaint. Defendant avers that the provisions of 32 C.F.R. § 518 speak for
18 themselves.

19 34. The allegations of paragraph 34 of the Complaint constitute legal
20 conclusions to which no response is required. To the extent a response is deemed
21 required, Defendant denies the allegations contained in paragraph 34 of the
22 Complaint. Defendant avers that the provisions of *A Citizen's Guide to Request*
23 *Army Records Under the Freedom of Information Act* speak for themselves.

24 35. The allegations of paragraph 35 of the Complaint constitute legal
25 conclusions to which no response is required. To the extent a response is deemed
26 required, Defendant denies the allegations contained in paragraph 35 of the
27 Complaint. Defendant avers that the provisions of 32 C.F.R. § 518 speak for
28 themselves.

1 36. The allegations of paragraph 36 of the Complaint constitute legal
2 conclusions to which no response is required. To the extent a response is deemed
3 required, Defendant denies the allegations contained in paragraph 36 of the
4 Complaint. Defendant avers that the provisions of 5 U.S.C. § 552 speak for
5 themselves.

6 37. The allegations of paragraph 37 of the Complaint constitute legal
7 conclusions to which no response is required. To the extent a response is deemed
8 required, Defendant denies the allegations contained in paragraph 37 of the
9 Complaint. Defendant avers that the provisions of 5 U.S.C. § 552 speak for
10 themselves.

11 38. Defendant lacks knowledge sufficient to form a belief as to the truth
12 of the matters asserted in paragraph 38 of the Complaint and on that basis denies
13 them. Defendant avers that Exhibit A to Plaintiff's Complaint speaks for itself.

14 39. Defendant lacks knowledge sufficient to form a belief as to the truth
15 of the matters asserted in paragraph 39 of the Complaint and on that basis denies
16 them. Defendant avers that Exhibit B to Plaintiff's Complaint speaks for itself.

17 40. Defendant lacks knowledge sufficient to form a belief as to the truth
18 of the matters asserted in paragraph 40 of the Complaint and on that basis denies
19 them. Defendant avers that Exhibit C to Plaintiff's Complaint speaks for itself.

20 41. Defendant lacks knowledge sufficient to form a belief as to the truth
21 of the matters asserted in paragraph 41 of the Complaint and on that basis denies
22 them. Defendant avers that Exhibit D to Plaintiff's Complaint speaks for itself.

23 42. Defendant lacks knowledge sufficient to form a belief as to the truth
24 of the matters asserted in paragraph 42 of the Complaint and on that basis denies
25 them.

26 43. Defendant lacks knowledge sufficient to form a belief as to the truth
27 of the matters asserted in paragraph 43 of the Complaint and on that basis denies
28 them.

1 44. Defendant lacks knowledge sufficient to form a belief as to the truth
2 of the matters asserted in paragraph 44 of the Complaint and on that basis denies
3 them.

4 45. Defendant lacks knowledge sufficient to form a belief as to the truth
5 of the matters asserted in paragraph 45 of the Complaint and on that basis denies
6 them.

7 46. Defendant lacks knowledge sufficient to form a belief as to the truth
8 of the matters asserted in paragraph 46 of the Complaint and on that basis denies
9 them. Defendant avers that Exhibit E to Plaintiff's Complaint speaks for itself.

10 47. Defendant lacks knowledge sufficient to form a belief as to the truth
11 of the matters asserted in paragraph 47 of the Complaint and on that basis denies
12 them. Defendant avers that Exhibit E to Plaintiff's Complaint speaks for itself.

13 48. Defendant lacks knowledge sufficient to form a belief as to the truth
14 of the matters asserted in paragraph 48 of the Complaint and on that basis denies
15 them. Defendant avers that Exhibit F to Plaintiff's Complaint speaks for itself.

16 49. Defendant lacks knowledge sufficient to form a belief as to the truth
17 of the matters asserted in paragraph 49 of the Complaint and on that basis denies
18 them. Defendant avers that Exhibit G to Plaintiff's Complaint speaks for itself.

19 50. Defendant lacks knowledge sufficient to form a belief as to the truth
20 of the matters asserted in paragraph 50 of the Complaint and on that basis denies
21 them.

22 51. Defendant lacks knowledge sufficient to form a belief as to the truth
23 of the matters asserted in paragraph 51 of the Complaint and on that basis denies
24 them.

25 52. Defendant lacks knowledge sufficient to form a belief as to the truth
26 of the matters asserted in paragraph 52 of the Complaint and on that basis denies
27 them. Defendant avers that Exhibit H to Plaintiff's Complaint speaks for itself.
28

1 53. Defendant lacks knowledge sufficient to form a belief as to the truth
2 of the matters asserted in paragraph 53 of the Complaint and on that basis denies
3 them.

4 54. Defendant lacks knowledge sufficient to form a belief as to the truth
5 of the matters asserted in paragraph 54 of the Complaint and on that basis denies
6 them. Defendant avers that Exhibit I to Plaintiff's Complaint speaks for itself.

7 55. Defendant lacks knowledge sufficient to form a belief as to the truth
8 of the matters asserted in paragraph 55 of the Complaint and on that basis denies
9 them. Defendant avers that Exhibit J to Plaintiff's Complaint speaks for itself.

10 56. Defendant lacks knowledge sufficient to form a belief as to the truth
11 of the matters asserted in paragraph 56 of the Complaint and on that basis denies
12 them. Defendant avers that Exhibit K to Plaintiff's Complaint speaks for itself.

13 57. Defendant lacks knowledge sufficient to form a belief as to the truth
14 of the matters asserted in paragraph 57 of the Complaint and on that basis denies
15 them.

16 58. Defendant lacks knowledge sufficient to form a belief as to the truth
17 of the matters asserted in paragraph 58 of the Complaint and on that basis denies
18 them. Defendant avers that Exhibit L to Plaintiff's Complaint speaks for itself.

19 59. Defendant lacks knowledge sufficient to form a belief as to the truth
20 of the matters asserted in paragraph 59 of the Complaint and on that basis denies
21 them. Defendant avers that Exhibit M to Plaintiff's Complaint speaks for itself.

22 60. Defendant lacks knowledge sufficient to form a belief as to the truth
23 of the matters asserted in paragraph 60 of the Complaint and on that basis denies
24 them. Defendant avers that Exhibit N to Plaintiff's Complaint speaks for itself.

25 61. Deny.

26 62. Defendant reasserts its responses to the preceding paragraphs and
27 incorporates them fully by reference as if set forth herein.

63. Defendant avers that Plaintiff's FOIA request at issue in this litigation speaks for itself.

64. Deny.

65. Deny.

66. Deny.

67. Defendant lacks knowledge sufficient to form a belief as to the truth of the matters asserted in paragraph 67 of the Complaint and on that basis denies them.

68. Defendants lack knowledge sufficient to form a belief as to the truth of the matters asserted in paragraph 68 of the Complaint and on that basis deny them.

69. Deny.

70. The remainder of the Complaint constitutes Plaintiff's prayer for relief to which no response is required. To the extent that a response is deemed required, the allegations of the prayer for relief are denied. Plaintiff should take nothing at all.

71. Any allegation contained in Plaintiff's Complaint that has not been admitted or denied is hereby denied.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Defendants upon which relief can be granted. Fed. R. Civ. P. 12(b)(6).

SECOND AFFIRMATIVE DEFENSE

The Complaint purports to impose obligations upon Defendants that exceed those imposed by the Freedom of Information Act (“FOIA”).

THIRD AFFIRMATIVE DEFENSE

Plaintiff is not entitled to compel the production of records that are exempt from disclosure under FOIA or under other provisions of law, or to compel the production of records that are not subject to FOIA.

1 WHEREFORE, Defendant prays for judgment dismissing Plaintiff's
2 Complaint, and awarding Defendant its costs and disbursements in this action, and
3 for such other and further relief as the Court may deem just and proper.

4 Dated: February 5, 2014

5 Respectfully submitted,

6 ANDRÉ BIROTTÉ JR.
United States Attorney
7 LEON W. WEIDMAN
Assistant United States Attorney
8 Chief, Civil Division

9 */s/ Jason K. Axe*
10 JASON K. AXE
11 Assistant United States Attorney
Attorneys for Defendant